

Serial No. 10/751,294

REMARKS

U.S. Patent No. 7,233 issued to Davis and not Gibbons and is directed to a butter churn. Thus, it is respectfully requested that the correct patent number for Gibbons be identified and a new official action mailed directed thereto.

To advance prosecution of the present application, response to the extent possible is hereby made to the new rejections on newly cited prior art.

Specifically, it should be noted that Kirk discloses a belt buckle and that the left loop in Kirk is integrally attached to the central member and thereby is not pivotal or releasable relative to each other. Thus, the rejection of claims 12 and 13 and the claims which depend therefrom based upon Kirk has been overcome as not being anticipated under 35 U.S.C. § 102.

It is respectfully submitted that a person skilled in the art would consider the left end of the right loop of Kirk to be a male member received in the hook of the central member which forms a female member contrary to the recitations of claims 12 and 13. The undersigned is unable to understand how the claims are being applied to Kirk. Thus, if the rejection based upon Kirk is continued, it is respectfully requested that Examiner Parsley provide a further explanation such as, but not limited to, a marked copy of the drawings of Kirk. It is respectfully submitted that the rejection of claims 12 and 13 has been overcome for these separate and independent reasons.

To advance prosecution, claim 16 has been amended and claim 23 has been added further defining the present invention in a manner to distinguish over the prior art. Thus, it is respectfully submitted that claims 16 and 23 are in condition for allowance for these separate and independent reasons.

Hoch discloses the hook formed on the end for hooking the central portion. Kirk discloses the hook formed on the central portion for hooking the end, or in other words, Hoch and Kirk disclose alternate arrangements. It is respectfully submitted that it is improper to select one feature of Hoch while discarding all other features taught by Hoch and then to utilize that feature in a manner which is not suggested by either Hoch or Kirk. Thus, it is respectfully submitted that the rejection of claim 17 has been overcome for this separate and independent reason.

Claim 18 has been amended in a manner to incorporate claim 21 and to further define the present invention in a manner to distinguish over the prior art. Specifically, due to the

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arrangement of the hook of Sharp, it is necessary to move the hook to be in front of and past the ends of the loop, to then move the hook radially inward into the loop, and then to move the hook circumferentially relative to the loop. Such a procedure would not be desired if attempting to attach a collar to a cat as in the preferred form of the present invention. Claim 18 as amended recites structure which distinguishes over Sharp and which is advantageous thereover. Thus, it is respectfully submitted that the rejection of claim 18 and the claims which depend therefrom has been overcome.

By the lack of application of the references cited in the May 13 and October 25, 2004 and January 28, 2005 Office communications and others like them within the classes or subclasses searched, the Examiner apparently recognizes the clear patentability of the present invention over any of these references.

Therefore, since the claims of the present application have been shown to include limitations directed to the features of applicant's safety device of collar for pet which are neither shown, described, taught, nor alluded to in any of the references cited by the Examiner, whether those references are taken singly or in any combination, the Examiner is requested to allow claims 4-7, 10-20, 22 and 23 as amended, of the present application and to pass this application to issue.

REQUEST TO WITHDRAW FINAL AS PREMATURE

MPEP § 706.07 (a) indicates:

A second or any subsequent action on the merits in any application...should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed. See MPEP § 904 *et seq.*

As an example, MPEP § 904.03 indicates:

It is a prerequisite to a speedy and just determination of the issues involved in the examination of an application that a careful and comprehensive search... be made in preparing the first action on the merits... It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment. ...

In doing a complete search, the examiner should find and cite references that, while not needed for treating the claims, would be useful for forestalling the presentation of claims to other subject matter regarded by applicant as his or her invention, by showing that his other subject matter is old or obvious.

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Four official actions have been mailed on the above application, all of which relied upon newly cited prior art to reject the claims. It is respectfully requested that the Examiner indicate why the changes made in the Amendment filed May 13, 2005 would not have reasonably expected to be claimed, and why such art should not have properly included in the search of the first Official Action mailed on May 13, 2004 according to MPEP § 904.03. To allow just determination, it is respectfully submitted that the final designation be withdrawn so that the applicant be given an opportunity to show that the present invention distinguishes over the prior art.

INVITATION

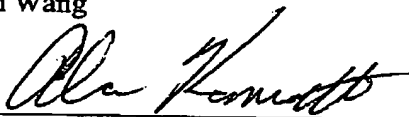
The undersigned appreciates the effort that the Patent Office has expended in this application, but Examiner Parsley should also recognize the burden placed upon the applicant in responding to four official actions as well as a telephonic interview with Examiner Parsley on May 10, 2005, resulting in amendments to the claims which were believed to place the application in condition for allowance as set forth in the last paragraph of the Amendment filed May 13, 2005. Thus, it is respectfully submitted in the event any obstacles exist to the allowance of the present application, that Examiner Parsley initiate a telephonic interview so that such obstacles can be discussed including, but not limited to, distinctions over any newly cited prior art such as Gibbons.

Respectfully submitted,

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Dated: October 5, 2005.

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